

House Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 96

HOUSE BILL 2431

AN ACT

AMENDING SECTION 33-422, ARIZONA REVISED STATUTES; RELATING TO DISCLOSURE ON
TRANSFER OF REAL PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-422, Arizona Revised Statutes, is amended to
3 read:

4 33-422. Land divisions; recording; disclosure affidavit

5 A. A seller of five or fewer parcels of land, other than subdivided
6 land, in an unincorporated area of a county and any subsequent seller of such
7 a parcel shall furnish a written affidavit of disclosure to the buyer, at
8 least seven days before the transfer of the property, and the buyer shall
9 acknowledge receipt of the affidavit.

10 B. The affidavit must be written in twelve point type.

11 C. No release or waiver of a seller's liability arising out of any
12 omission or misrepresentation contained in an affidavit of disclosure is
13 valid or binding on the buyer.

14 D. The buyer has the right to rescind the sales transaction for a
15 period of five days after the affidavit of disclosure is furnished to the
16 buyer.

17 E. The seller shall record the executed affidavit of disclosure at the
18 same time that the deed is recorded. The county recorder is not required to
19 verify the accuracy of any statement in the affidavit of disclosure. A
20 subsequently recorded affidavit supersedes any previous affidavit.

21 F. The affidavit of disclosure shall meet the requirements of section
22 11-480 and follow substantially the following form:

23 When recorded mail to:

24 _____
25 _____
26 _____
27 _____

28 Affidavit of Disclosure
29 Pursuant to A.R.S. §33-422

30 I, _____ (seller(s))
31 being duly sworn, hereby make this affidavit of disclosure
32 relating to the real property situated in the unincorporated
33 area of:

34 _____, County, State of Arizona, located at:

35 _____
36 and legally described as:

37 (Legal description attached hereto as exhibit "A")
38 (property).

- 39 1. There ☐ is ☐ is not....legal access to the property, as
40 defined in A.R.S. § 11-809....☐ unknown

41 Explain: _____
42 _____
43 _____

- 1 2. There ☐ is ☐ is not....physical access to the property.
2 ☐ unknown
3 Explain: _____
4 _____
5 _____
- 6 3. There ☐ is ☐ is not....a statement from a licensed surveyor or
7 engineer available stating whether the property has physical
8 access that is traversable by a two-wheel drive passenger motor
9 vehicle.
- 10 4. The legal and physical access to the property ☐ is ☐ is
11 not....the same....☐ unknown ☐ not applicable.
12 Explain: _____
13 _____
14 _____
- 15 *If access to the parcel is not traversable by emergency*
16 *vehicles, the county and emergency service providers may not be*
17 *held liable for any damages resulting from the inability to*
18 *traverse the access to provide needed services.*
- 19 5. The road(s) is/are ☐ publicly maintained ☐ privately
20 maintained ☐ not maintained ☐ not applicable. If applicable,
21 there ☐ is ☐ is not....a recorded road maintenance agreement.
22 *If the roads are not publicly maintained, it is the*
23 *responsibility of the property owner(s) to maintain the roads*
24 *and roads that are not improved to county standards and accepted*
25 *for maintenance are not the county's responsibility.*
- 26 6. A portion or all of the property ☐ is ☐ is not....located in a
27 FEMA designated regulatory floodplain. If the property is in a
28 floodplain, it may be subject to floodplain regulation.
- 29 7. The following services are currently provided to the property:
30 ☐ water ☐ sewer ☐ electric ☐ natural gas ☐ single
31 party telephone ☐ cable television services.
- 32 8. THE PROPERTY ☐ IS ☐ IS NOT....SERVED BY A WATER SUPPLY THAT
33 REQUIRES THE TRANSPORTATION OF WATER TO THE PROPERTY.
- 34 ~~8.~~ 9. The property is served by ☐ A PRIVATE WATER COMPANY ☐ A
35 MUNICIPAL WATER PROVIDER ☐ a private well ☐ a shared well
36 ☐ no well. If served by a shared well, the shared well ☐ is
37 ☐ is not....a public water system, as defined by the safe
38 drinking water act (42 United States Code § 300f).
- 39 *NOTICE TO BUYER: IF THE PROPERTY IS SERVED BY A WELL, PRIVATE*
40 *WATER COMPANY OR A MUNICIPAL WATER PROVIDER THE ARIZONA*
41 *DEPARTMENT OF WATER RESOURCES MAY NOT HAVE MADE A WATER SUPPLY*
42 *DETERMINATION. FOR MORE INFORMATION ABOUT WATER SUPPLY, CONTACT*
43 *THE WATER PROVIDER.*

1 ~~9-~~ 10. The property ☐ does have ☐ does not have an
2 on-site wastewater treatment facility (i.e., standard septic or
3 alternative system to treat and dispose of wastewater).
4 ☐ unknown. If applicable: a) The property ☐ will ☐ will not
5 require installation of an on-site wastewater treatment
6 facility; b) The on-site wastewater treatment facility ☐ has
7 ☐ has not been inspected.

8 ~~10-~~ 11. The property ☐ has been ☐ has not been subject to a
9 percolation test. ☐ unknown.

10 ~~11-~~ 12. The property ☐ does ☐ does not....meet the minimum
11 applicable county zoning requirements of the applicable zoning
12 designation.

13 ~~12-~~ 13. The sale of the property ☐ does ☐ does not...meet the
14 requirements of A.R.S. § 11-809 regarding land divisions. If those
15 requirements are not met, the property owner may not be able to
16 obtain a building permit. The seller or property owner shall
17 disclose each of the deficiencies to the buyer.

18 Explain: _____
19 _____
20 _____

21 ~~13-~~ 14. The property ☐ is ☐ is not located in the clear zone of
22 a military airport or ancillary military facility, as defined in
23 A.R.S. § 28-8461. (Maps are available at the state real estate
24 department's web site.)

25 ~~14-~~ 15. The property ☐ is ☐ is not located in the high noise or
26 accident potential zone of a military airport or ancillary military
27 facility, as defined in A.R.S. § 28-8461. (Maps are available at
28 the state real estate department's web site.)

29 ~~15-~~ 16. Notice: If the property is located within the territory in
30 the vicinity of a military airport or ancillary military facility,
31 the property is required to comply with sound attenuation standards
32 as prescribed by A.R.S. § ~~28-2482~~ 28-8482. (Maps are available at
33 the state real estate department's web site.)

34 ~~16-~~ 17. The property ☐ is ☐ is not located under military
35 restricted airspace. ☐ unknown. (Maps are available at the state
36 real estate department's web site.)

37 This affidavit of disclosure supersedes any previously recorded
38 affidavit of disclosure.

39 I certify under penalty of perjury that the information
40 contained in this affidavit is true, complete and correct
41 according to my best belief and knowledge.

42 Dated this _____ (date) day of _____ (year) by:
43 Seller's name (print): _____ Signature: _____
44 Seller's name (print): _____ Signature: _____

1 State of Arizona)
2) ss.
3 County of _____)
4 Subscribed and sworn before me this ____ (date) ____ day of
5 ____ (year) ____, by _____.
6 _____
7 Notary public
8 My commission expires:
9 ____ (date) ____
10 Buyer(s) hereby acknowledges receipt of a copy of this affidavit
11 of disclosure this ____ (date) ____ day of ____ (year) ____
12 Buyer's name (print): _____ Signature: _____
13 Buyer's name (print): _____ Signature: _____
14 G. For the purposes of this section, seller and subsequent seller do
15 not include a trustee of a deed of trust who is selling property by a
16 trustee's sale pursuant to title 33, chapter 6.1 or any officer who is
17 selling property by execution sale pursuant to title 12, chapter 9 and
18 title 33, chapter 6. If the seller is a trustee of a subdivision trust as
19 defined in section 6-801, the disclosure affidavit required by this section
20 shall be provided by the beneficiary of the subdivision trust.

APPROVED BY THE GOVERNOR APRIL 11, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2006.

